

Addendum B

Addendum B: IBM's Objections to SCO's Alleged Evidence

SCO's Alleged Evidence	IBM's Objections	Objections
<p>Evidence concerning alleged infringement: (1) of UNIX</p> <p>SECTION REDACTED by Linux of UNIX's</p> <p>SECTION REDACTED</p>	<p>SCO Ex. 11; SCO Ex. 78; SCO Ex. 169; SCO Ex. 228; SCO Ex. 237; SCO Ex. 258; SCO Ex. 259; SCO Ex. 260; SCO Ex. 261; SCO Ex. 262; SCO Ex. 263; SCO Ex. 265; SCO Ex. 268; SCO Ex. 274 ; SCO Ex. 275; SCO Ex. 276; SCO Ex. 377.</p>	<p>Not identified in Final Disclosures; Stricken by order of Magistrate Wells.</p>
	<p>SCO Ex. 11; SCO Ex. 274; SCO Ex. 275; SCO Ex. 276.</p>	<p>Not consistent with Fed. R. Evid. 702.</p>
	<p>SCO Ex. 11.</p>	<p>Untimely expert report.</p>
<p>Evidence concerning factual copying of UNIX. (SCO DJ Br. ¶¶ 17, 22, 23, 25, 26, 28, 29, 146.)</p>	<p>SCO Ex. 274; SCO Ex. 276; SCO Ex. 287.</p>	<p>Not consistent with Fed. R. Evid. 702; No foundation or personal knowledge.</p>
<p>Evidence concerning IBM's alleged misconduct in relation to Project Monterey. (SCO DJ Br. ¶¶ 119, 120, 121, 122, 123, 124, 137, 138, 139, 140, 141, 143.)</p>	<p>SCO Ex. 2; SCO Ex. 17; SCO Ex. 89; SCO Ex. 104; SCO Ex. 165; SCO Ex. 204; SCO Ex. 207; SCO Ex. 214; SCO Ex. 269; SCO Ex. 351; SCO Ex. 352; SCO Ex. 362; SCO Ex. 386; SCO's Mem. Opp. IBM's Mot. Summ. J. SCO's Unfair Comp. Claim at 16-78; IBM Ex. 23; IBM Ex. 24; IBM Ex. 25; IBM Ex. 54; IBM Ex. 86; IBM Ex. 123; IBM Ex. 245; IBM Ex. 259.</p>	<p>Irrelevant.</p>

Subject Area of Evidence	Illustrative Example(s)	Objection(s)
Parol/extrinsic evidence concerning the meaning of unambiguous terms in the Novell/Santa Cruz Asset Purchase Agreement. (SCO DJ Br. ¶¶ 57, 58, 59, 61, 62, 63, 64, 65, 66, 67.)	SCO Ex. 18; SCO Ex. 38; SCO Ex. 39; SCO Ex. 40; SCO Ex. 50; SCO Ex. 59; SCO Ex. 76; SCO Ex. 133; SCO Ex. 136; SCO Ex. 165; SCO Ex. 258; SCO Ex. 259; SCO Ex. 260; SCO Ex. 261; SCO Ex. 262; SCO Ex. 263; SCO Ex. 265; SCO Ex. 268; SCO Ex. 332; SCO Ex. 351.	Irrelevant; Violates the parol evidence rule.
	SCO Ex. 165; SCO Ex. 332.	Hearsay.
Parol/extrinsic evidence concerning the meaning of unambiguous terms in the UnitedLinux Joint Development Contract. (SCO DJ Br. ¶¶ 76-79.)	SCO Ex. 233; SCO Ex. 269.	Irrelevant; Violates the parol evidence rule.
	SCO Ex. 233.	Hearsay; No foundation or personal knowledge.
Evidence concerning the absence of SCO copyrights in the Linux kernel despite SCO copyrights being placed on SCO's Linux distributions. (SCO DJ Br. ¶¶ 94, 95, 100, 101, 117.)	SCO Ex. 11; SCO Ex. 233; SCO Ex. 276.	Irrelevant;

Proposed Exclusions	Proposed Inclusions	Objections
Evidence concerning SCO's lack of ownership of UNIX copyrights to show its purported inability to grant IBM a UNIX license, or mislead IBM about its intention not to assert its purported UNIX rights over Linux. (SCO DJ Br. ¶¶ 92, 150.)	SCO Ex. 221; SCO Ex. 269.	Irrelevant.
Declarations of individual SCO officers about what SCO authorized internally with respect to its Linux activities, when other officers, and SCO itself, acted with apparent authority to waive SCO's rights. (SCO DJ Br. ¶¶ 79, 94, 95, 100, 148, 149.)	SCO Ex. 6; SCO Ex. 233; SCO Ex. 269.	Irrelevant.